



BILLING CODE: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0907301205-0289-02]

RIN 0648-XC290

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Adjustment to the Atlantic Herring Management Area 1A Sub-Annual Catch Limit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS adjusts the 2012 fishing year sub-annual catch limit for Atlantic Herring Management Area 1A due to an under-harvest in the New Brunswick weir fishery. This action complies with the 2010-2012 specifications and management measures for the Atlantic Herring Fishery Management Plan.

DATES: Effective November 1, 2012, through December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Lindsey Feldman, Fishery Management Specialist, 978-675-2179, Fax 978-281-9135.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of the overfishing limit, acceptable biological catch (ABC), annual catch limit (ACL), optimum yield (OY), domestic harvest and processing, U.S. at-sea processing, border transfer and sub-ACLs for each

management area. The 2012 Domestic Annual Harvest was set as 91,200 metric tons (mt); the sub-ACL allocated to Area 1A for the 2012 fishing year (FY) was 26,546 mt and no herring catch was set aside for research in the 2010-2012 specifications (75 FR 48874, August 12, 2010).

Due to an over-harvest in Area 1A in 2010, the FY 2012 sub-ACL in Area 1A was revised to 24,668 mt on February 24, 2012 (77 FR 10978, February 24, 2012). An additional 295 mt of the Area 1A sub-ACL is set aside for fixed gear fisheries west of Cutler, ME, until November 1, 2012, reducing the Area 1A sub-ACL to 24,373 mt. Due to the variability of Canadian catch in the New Brunswick weir fishery, a 3,000 mt portion of the 9,000 mt buffer between ABC and OY (the buffer to account for Canadian catch) is allocated to Area 1A, provided New Brunswick weir landings are lower than the amount specified in the buffer.

The NMFS Regional Administrator is required to monitor the fishery landings in the New Brunswick weir fishery each year. If the New Brunswick weir fishery landings through October 15 are less than 9,000 mt, then 3,000 mt of the weir fishery allocation is required to be added to the Area 1A sub-ACL in November of the same year. When such a determination is made, NMFS is required to publish a notification in the Federal Register to adjust the Area 1A sub-ACL for the remainder of the FY.

The Regional Administrator has determined, based on the best available information, that the New Brunswick weir fishery landings for FY 2012 through October 15, 2012, were 409 mt. Therefore, effective November 1, 2012, 3,000 mt will be allocated to the Area 1A sub-ACL, increasing the FY 2012 Area 1A sub-ACL from 24,373 mt to 27,373 mt. Because any increase to a sub-ACL also increases the stock-wide ACL, this allocation increases the 2012 stock-wide ACL from 91,200 mt to 94,200 mt. Additionally, the allocation of 3,000 mt to Area 1A will be

taken into consideration when NMFS projects that catch will reach 95 percent of the Area 1A sub-ACL.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it is impracticable and contrary to the public interest. This action increases the sub-ACL for Area 1A by 3,000 mt (from 24,373 mt to 27,373 mt) through December 31, 2012. The regulations at § 648.201(f) require such action to help mitigate some of the negative economic effects associated with the reduction in the Area 1A sub-ACL in the 2010-2012 specifications process (40 percent less than in 2009). The herring fishery extends from January 1 to December 31. Data indicate the New Brunswick weir fishery landed 409 mt through October 15, 2012. There is a limited amount of time between October 15 (when the New Brunswick weir fishery slows for the year) and the end of the U.S. herring fishing year on December 31. If implementation of this Area 1A sub-ACL increase is delayed to solicit prior public comment, the increase may not be effective prior to the end of the 2012 fishing year and the 3,000 mt allocation would not be available for harvest. Additionally, the availability of herring in Area 1A is seasonal. As the end of the fishing year approaches, herring can disperse or move out of Area 1A, and/or the approach of winter weather can hinder fishery access to herring in Area 1A. The best available information indicates that current catch is close to 95 percent of the Area 1A sub-ACL. If implementation of this increase is delayed to solicit prior public comment, herring may no longer

be available to the fishery for harvest in Area 1A, thereby undermining the intended economic benefits associated with this action. NMFS further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

Authority: 16 U.S.C. 1801 et seq.

Dated: October 24, 2012

James P. Burgess,

Acting Deputy Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

[FR Doc. 2012-26535 Filed 10/24/2012 at 4:15 pm; Publication Date: 10/29/2012]